



**COMMISSION
AGENDA MEMORANDUM**

Item No. 6d

BRIEFING ITEM

Date of Meeting October 27, 2020

DATE: September 14, 2020

TO: Stephen P. Metruck, Executive Director

FROM: Sandra Kilroy, Director, Maritime Environment & Sustainability
Jon Sloan, Sr. Manager, Environmental Programs

SUBJECT: Terminal 5 North Washington State Department of Natural Resources (DNR) Lease

Amount of this request: \$6,000

ACTION REQUESTED

Request Commission authorization to execute a 10-year lease agreement with the Washington State Department of Natural Resources (DNR) for aquatic lands north of Terminal 5. Rent is \$500 per year with an annual adjustment for producer price index (PPI), payable annually upon execution of the agreement. The total cost of the lease over 10 years is approximately \$6,000, assuming a 2.5%-3% inflation rate.

EXECUTIVE SUMMARY

The Maritime Environment & Sustainability Department proposes to enter into a 10-year lease agreement with the DNR for Port use of DNR-owned aquatic lands north of the Port's Terminal 5 facility. The lease is necessary for the installation of four steel pilings to support tribal fishing operations. The piling installation will satisfy an agreement with the Muckleshoot and Suquamish tribes to replace fishing net anchor piles removed as part of the Port's Terminal 5 Piling Removal Project completed in 2018. The lease covers aquatic lands outside of the existing Port Management Agreement area.

JUSTIFICATION

This lease with DNR is needed in order to satisfy conditions of agreements between the Port and the Suquamish and Muckleshoot Indian Tribes to provide four fishing net tie-off pilings. These are replacements for pilings that were historically used by the Tribes as net tie-offs until their removal by the Port in 2018. The pilings were removed to fulfill an obligation created by a lease termination with DNR by removing structures in a superfund cleanup site. Per the agreements, the location of the replacement pilings was determined by the Tribes; the four sites that were selected are within the footprint of the removed pilings and are within DNR-owned aquatic lands, resulting in the need to enter into this aquatic lands lease with DNR.

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DETAILS

The 10-year lease covers four distinct (non-contiguous) areas, to include a circle with a 10-foot radius around each of the four new pilings to be installed. Each of the four areas is approximately 315 square feet; total lease area is 1,257 square feet, or 0.03 acres.

The lease agreement authorizes specific uses or activities within the lease area. Authorized uses include installation and maintenance of four piling for fishing net tie-offs. The piling will be marked and lighted per US Coast Guard requirements for private aids to navigation.

The lease area is within an area subject to remediation agreement with the US Environmental Protection Agency and Lockheed Martin, Inc. The Port of Seattle is not a party to this agreement and maintains no legal responsibility for cleanup obligations.

At the expiration of the 10-year lease, the Port would determine whether to renegotiate a lease with DNR, or allow the lease to terminate, thereby transferring ownership of the piles to DNR.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Alternative 1 – Do not pursue a lease agreement with DNR

Cost Implications: NA

Pros:

- Cost savings
- Reduces administrative costs

Cons:

- Prevents the Port from meeting obligations to tribes as mitigation for completed project
- Creates the need to re-negotiate with tribes for mitigation

This is not the Recommended Alternative

Alternative 2 – Pursue a 30-year lease agreement with DNR

Cost Implications: Approximately \$20,000

Pros:

- Secures use of the project area for the long-term
- Facilitates future maintenance

Cons:

- Increases long-term costs if lump sum payment is not possible

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- Increases long-term administration and property management needs
- Could result in project delay due to elevated signature authority at DNR
- The long-term lease is not required as part of the agreement with the Tribes.

This is not the recommended alternative.

Alternative 3 – Pursue a 10-year lease agreement with DNR

Cost Implications: Approximately \$6,000

Pros:

- Allows Port to meet contractual obligations to tribes as mitigation for completed project
- Maximizes timing efficiency by minimizing DNR review requirements and signature authority

Cons:

- Introduces new long-term administration and property management needs
- At the expiration of the 10-year lease, the Port would have to determine whether to renegotiate a lease with DNR, or allow the lease to terminate, thereby transferring ownership of the piles to DNR. DNR may require removal of the piles as a condition of lease termination.

This is the recommended alternative.

FINANCIAL IMPLICATIONS

Annual Budget Status and Source of Funds

The Terminal 5 Net-Tie Pilings is a joint-venture project with the NWSA. Ongoing expenses, including lease payments and maintenance costs will be funded by the Maritime expense budget.

<i>Cost Estimate/Authorization Summary</i>	Capital	Expense	Total
COST ESTIMATE			
Original estimate	\$0	\$0	\$0
Current change	\$0	\$6,000	\$6,000
Revised estimate	\$0	\$6,000	\$6,000
AUTHORIZATION			
Previous authorizations	\$0	\$0	\$0
Current request for authorization	\$0	\$6,000	\$6,000
Total authorizations, including this request	\$0	\$6,000	\$6,000
Remaining amount to be authorized	\$0	\$0	\$0

ATTACHMENTS TO THIS BRIEFING

- (1) DNR Lease for Tribal Net Piling
- (2) Exhibit B to DNR Lease for Tribal Net Piling
- (3) Terminal 5 Pile Lease Area Parcel A
- (4) Terminal 5 Pile Lease Area Parcel B
- (5) Terminal 5 Pile Lease Area Parcel C
- (6) Terminal 5 Pile Lease Areas Parcel D
- (7) Presentation Slides

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

Commission Regular Meeting – June 13, 2017